

## Display 27: Major Criminal Justice Initiatives in Virginia (1988–1998)

*During the last decade, Virginia lawmakers have enacted various laws to respond to crime in Virginia. This section summarizes some of the major initiatives passed during this time. Although there are numerous laws enacted each year dealing with criminal justice issues, this list highlights only some of the major legislation and is not intended to be a complete list of criminal justice legislation during the past decade.*

■ **Virginia Firearms Transaction Program** (1989). Virginia law requires that a criminal history records check be conducted on persons purchasing a firearm from a licensed dealer. This program provides a timely, point-of-sale check by allowing the dealer to contact the State Police via telephone or computer terminal. The check eliminates traditional waiting periods by electronically accessing the Virginia Central Criminal Records Exchange, wanted, missing persons and protective order files, handgun purchase calendar files, a file on adjudications of legal incompetence and incapacity and involuntary commitments to mental institutions, and the FBI's National Instant Check System. State Police provide the dealer with an approval or disapproval, usually within several minutes. Sales are disapproved if the background check reveals any state or federal prohibitor making the person legally ineligible to purchase a firearm. Virginia was the first state in the nation to establish such an "instant background check" (§ 18.2-308.2:2).

■ **DNA Analysis and Data Bank** (1990). Persons convicted of a felony on or after July 1, 1990, or convicted of certain felonies and incarcerated on July 1, 1989, must provide a blood sample to produce a DNA profile for storage in the Division of Forensic Science DNA data bank. Results of analyses are available to federal, state and local law enforcement agencies investigating criminal offenses (§ 19.2-310.2). In 1996, legislation was passed requiring juveniles 14 or older to provide blood samples for DNA analysis when convicted of a felony or adjudicated delinquent for an offense which would be a felony if committed by an adult (§ 16.1-299.1).

■ **One Handgun per 30-Day Purchase Limit** (1993). This law limits to one the number of handguns that may be purchased by an individual in any 30-day period. Exceptions are allowed for licensed firearms dealers, law enforcement and correctional agencies, private security companies, purchasing antique firearms, and for replacing lost or stolen handguns. This law was passed to curtail gun traffickers who buy large numbers of handguns in Virginia and then illegally sell them. A major impetus for the law was gun trace data showing that Virginia was a major source of handguns for criminals in large eastern cities (§ 18.2-308.2:2).

■ **Serious or Habitual Offender Comprehensive Action Programs (SHOCAP)** (1993). This law allows city and county governments to establish multi-agency SHOCAPs to share information about certain serious juvenile offenders. Local committees are able to share information about juveniles convicted of certain felonies (murder, rape, armed robbery, sexual abuse and malicious wounding), or who have been convicted at least three times for offenses which would be felonies or Class I misdemeanors if committed by an adult. Legislation passed in 1999 further permitted certain serious juvenile offenders under SHOCAP supervision at age 18 to continue SHOCAP supervision until age twenty-one (§ 16.1-330.2).

■ **Juvenile Criminal History Records** (1993). This law requires the State Police Central Criminal History Records Exchange (CCRE) to maintain fingerprints and case disposition information for juveniles age 15 and older charged with a felony, and for juveniles age 13 or older charged with certain serious felonies. The fingerprints are destroyed when the juvenile reaches age 29, if the juvenile is not convicted of another felony between age 18 and 29. Under prior law, juvenile fingerprints were voluntarily submitted to the CCRE (§ 16.1-229 et seq.).

■ **Sex Offender Registry** (1994). This law, modeled after New Jersey's "Megan's Law," requires the State Police to maintain a registry of persons convicted of certain sex offenses and crimes against minors. Regis-

try information is available to local law enforcement agencies for administering criminal justice, for screening employees or volunteers, and otherwise protecting the public in general and children in particular. Registry information is shared with the FBI's National Sex Offender Registry. In 1998, legislation was added directing that certain registry information on violent sex offenders be made publicly available on the Internet in 1999 (§ 19.2-390.1).

■ **Parole Abolition and Truth-in-Sentencing** (1994). This legislation abolished parole and established a truth-in-sentencing sanctions system. The primary purpose of this initiative was to ensure that convicted felons served most of the time to which they were sentenced. Under the previous system, a combination of earned good-time credits and parole could allow a convicted offender to serve a fraction of the imposed sentence. Under the new system, offenders convicted of crimes committed on or after January 1, 1995 can earn a maximum 15% reduction in their time served, and must serve at least 85% of their imposed sentence. Additionally, time served for first-time violent offenders was increased by 100% to 125%, and by 300% to 500% for repeat violent offenders (§ 18.2-10; 19.2-297.1; 19.2-299; 53.1-20; 53.1-20.1; 53.1-32.1; 53.1-116; 53.1-145; 53.1-150; 53.1-180 - 53.1-184; 53.1-184.2; 53.1-185; 53.1-185.1; 53.1-187; 53.1-189; 53.1-191; 17-232 - 17-238; 19.2-152 - 19.2-152.7; 19.2-295.2; 19.2-298.01; 19.2-303.3; 19.2-303-5; 19.2-316.2; 19.2-316.3; 53.1-40.01; 53.1-67.2 - 53.1-67.8; 53.1-165.1; 53.1-182.1; 53.1-185.2; 153-185.3; 53.1-197.1; 53.1-202.1 - 53.1-202.4; 53.1-184.1).

■ **Statewide Community-Based Corrections System for State-Responsible Offenders** (1994). This act is intended to protect public safety, reduce recidivism and provide efficient and economical correctional services by establishing appropriate community-based alternative sanctions for state-responsible-offenders and by assisting incarcerated offenders' return to society as productive citizens. The system established under this act includes, but is not be limited to, regular and intensive probation supervision; regular and inten-

sive parole supervision (for offenses committed before 1995); home/electronic incarceration; incarceration in a diversion center, boot camp, or detention center; work-release; pre-release centers; probation-violator and parole violator centers; day reporting centers; halfway houses; drug court programs, and drug testing and treatment. These programs, services and facilities shall be available to each judicial circuit (§ 53.1-67.2 - 53.1-67.6).

■ **Comprehensive Community Corrections Act for Local Responsible Offenders** (1994). This act allows localities to establish community-based corrections programs as sentencing alternatives for certain misdemeanants and nonviolent felons who otherwise would be locally incarcerated. It is intended to give communities flexibility in responding to local crime problems, provide effective public safety and efficient use of resources, increase the ability of offenders to make restitution to crime victims, and reduce recidivism. Sanctions available under the act include community service, home incarceration, electronic monitoring, probation supervision, substance abuse testing and treatment services, and public inebriate diversion centers. Funding for programs may be through state funds or local program fees (§ 53.1-180 - 53.1-185.3).

■ **Pretrial Services Act** (1994). This act allows localities to operate pretrial services programs to assist judicial officers in bail-related duties. Programs interview and investigate defendants in custody awaiting trial, provide criminal record information, and provide information on defendant risk for flight to avoid prosecution, failure to appear, or risk to public safety. Programs often assist courts with indigency verification and supervise defendants released on bail to their custody. Supervision services for defendants released on bail include drug and alcohol screening, assessment, testing and treatment; home/electronic incarceration to ensure compliance with curfews; employment or education verification, and verification that counseling or treatment services are provided and completed. Programs provide services to Juvenile and Domestic Relations Courts by

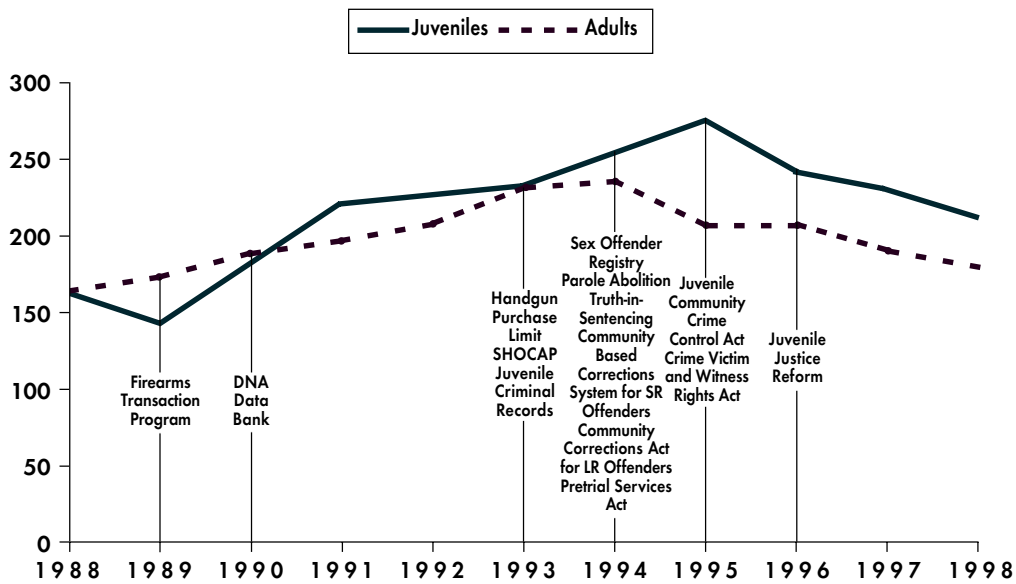
supervising adult defendant compliance with protective orders while awaiting trial and with defendant involvement in domestic violence intervention services. Funding for programs may be through federal, state, and local sources (§ 19.2-152.1 – 19.2-152.7).

■ **Virginia Juvenile Community Crime Control Act** (1995). This act encourages localities to establish a community-based system of progressively intensive sanctions and services corresponding to the severity of offense, treatment needs and crime trends in their localities. It serves juveniles before intake on complaints or the court on petitions alleging that the juvenile is delinquent, in need of services or in need of supervision, but excludes secure detention. Services can be pre-or post-dispositional, residential or nonresidential. They can provide diversion, sanction and treatment. The system is intended to deter crime by providing immediate, effective punishment emphasizing accountability of the juvenile offender and reducing repeat offending. The act strives to provide localities with autonomy and flexibility in planning (§ 16.1-309.2 - 16.1-309.10).

■ **Crime Victim and Witness Rights Act** (1995). This act provides crime victims and witness with certain legal rights, and is described in more detail in Display 26.

■ **Juvenile Justice Reform** (1996). Various legislative reforms were passed to establish that in juvenile proceedings the welfare of the child and family, community safety and victims rights are paramount concerns. Statutory changes included: Juveniles 14 and older charged with certain violent felonies may be automatically tried and sentenced as adults. Juveniles 14 and older who commit felonies may be tried as adults at the discretion of the Commonwealth's Attorney. Certain delinquent juveniles may be placed in boot camps. Juvenile fingerprints and photographs may be taken of any juvenile arrested for an offense reportable to the Central Criminal Records Exchange if committed by an adult. Juvenile CCRE records are no longer automatically expunged

when the offender reaches age 29, and access to juvenile records for sentencing purposes are broadened. Juvenile court proceedings involving any felony and a juvenile age 14 or older will be open unless the court finds good cause to close the proceeding (§ 16.1-227; 16.1-299; 16.1-278.8; 16.1-309.1).

**Display 28A: Major Criminal Justice Initiatives and Violent Crime Arrest Rates for Adults and Juveniles (1988–1998)**

Data Sources: *Crime in Virginia*, Uniform Crime Reporting Section, Virginia Department of State Police; U.S. Bureau of Census and Weldon Cooper Center for Public Service, University of Virginia.

## Display 28: Criminal Justice Initiatives and the Criminal Justice System

*The previous display described some of Virginia's major anti-crime initiatives enacted during the last decade. This display illustrates when specific initiatives were enacted during the decade and the crime trends that preceded and followed these initiatives. This section also presents information on how several of these initiatives have affected various components of the criminal justice system.*

■ The chart above shows that many of Virginia's major initiatives occurred following sustained increases in both adult and juvenile violent crime arrest rates. Many of the initiatives were directed mainly at violent crimes and offenders, suggesting that public safety policy makers developed these initiatives as direct responses to these rising crime rates.

■ Several of the initiatives applied advances in technology to reduce crime and improve crime investigation. Advances in electronic communications and record-keeping were used to attack firearms use in crime by quickly screening firearms purchasers to prohibit sales to convicted felons and other ineligible persons. Advances in

DNA testing and data retrieval were used to create a databank of felony offender DNA profiles for comparison against DNA samples obtained at crime scenes.

■ Broader "system reform" efforts aimed not only at improving the criminal justice system, but also at changing the focus of the system. Criminal sentencing reform legislation in 1994 limited the system's ability to reduce court-imposed sentence lengths and focused on increasing periods of incarceration for violent offenders. Similarly, the overall goal of the 1996 juvenile justice reform legislation was to focus the juvenile justice system less on the welfare of the juvenile offender and more on public safety.

■ Other major initiatives were aimed at providing appropriate and efficient sanctions for less serious offenders. Legislation in 1994 established community-based sanctions for state and local responsible offenders, and 1995 legislation provided similar sanctions for juvenile offenders. These initiatives recognized that some less serious offenders could be safely and more effectively sanctioned in the community rather than through lengthy incarceration in jail or prison.

■ Display 28A shows that adult and juvenile violent crime arrest rates in Virginia peaked in 1994 and 1995, respectively, and have steadily declined since then. These declines began at about the same times that Virginia enacted major legislative initiatives to reduce violent crime. Research to date is unable to determine if these reductions in crime rates are due to specific anti-crime initiatives. However, reductions have occurred in the types of crimes that were targeted by these initiatives, indicating that they may be having their intended effects.

■ Declines in violent crime rates also have occurred nationwide, and currently there is much debate among criminologists and policy makers as to what factors are contributing to these declines. Proposed factors include reduced violence associated with crack cocaine dealing, increases in opportunity due to the expanding economy, community policing, and higher arrest and incarceration rates. Further research is needed to better understand the relationships between anti-crime efforts and crime reductions.

■ Display 28B illustrates the impact of the 1994 sentencing reform legislation on prison time served by violent felons. This

initiative abolished parole, established a guidelines-based truth-in-sentencing system, and increased sentence lengths for violent offenders. Under the previous system of parole and “good time” sentence credits, some inmates could serve as little as 16% of their court-imposed prison sentence. Under sentencing reform, inmates must now serve at least 85% of their imposed sentence. The Virginia Criminal Sentencing Commission estimates that recently sentenced inmates will serve closer to 90% of their sentences.

■ Truth-in-sentencing incorporates sentencing guidelines with penalty enhancements that significantly increase recommended prison sentences for all violent offenders. Under the guidelines, offenders convicted of nonviolent felonies with no record of prior violent crimes receive no sentence enhancement. Sentence lengths for these felons are based on historical, pre-reform prison time served. However, offenders with a prior conviction or adjudication for a violent offense with a penalty of less than 40 years in prison (a Category II record) receive a major penalty enhancement. More serious offenders with a prior conviction or adjudication for a violent offense with a penalty of 40 or more years in prison (a Category I record) receive a more substantial penalty enhancement.

■ In Display 28B, prison time served under the parole system is compared to time served under truth-in-sentencing for offenders convicted of 1st degree murder, forcible rape, and robbery with a firearm. Parole system time served is based on time served by inmates released from prison from 1988 to 1992. Truth-in-sentencing time served is estimated based on sentence lengths for cases sentenced in FY 1998. All sentence lengths shown are median values (i.e., half of the time served lengths are above this value and half are below this value).

■ Under the previous parole system, offenders convicted of 1st degree murder with no prior violent record typically served 12.4 years in prison, whereas under the truth-in-sentencing system offenders convicted of this offense will now serve more than 37 years in prison. Offenders with a Category II record who were serving about 14 years in prison will now serve 51 years. Offenders with more serious Category I records who were serving about 15 years will now serve more than 95 years in prison.

■ Offenders convicted of forcible rape also will receive much longer sentences as a result of sentencing reform. Rapists with no prior violent record who were serving about 5.6 years in prison will now serve nine years. Rapists with Category II records who were serving 6.7 years will now serve 13.5 years, and those with Category I records who also were serving 6.7 years will now serve more than 31 years.

■ Convicted armed robbers with no prior violent record were serving about three years under the parole system, but will now serve more than seven years. Robbers with Category II records who formally served about four years will now serve almost eleven years, and those with a Category I record who previously served slightly more than four years will now serve more than 16 years.

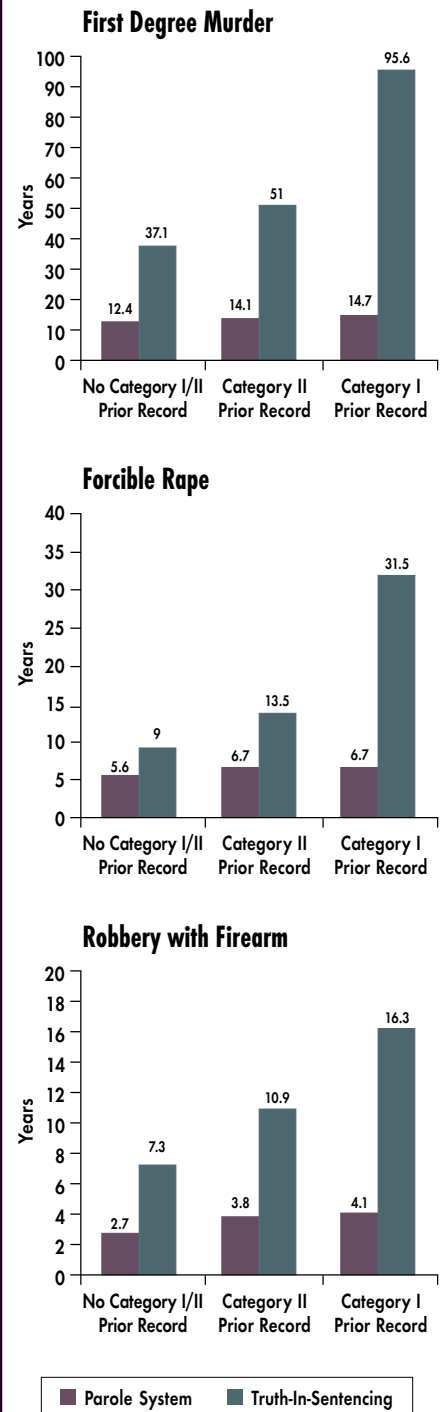
■ Similar increases have occurred in time served for offenders convicted of other violent offenses, as well as for other property and drug felons with violent prior records. Sentencing reform will continue to have a major impact on criminal justice in the Commonwealth. Unlike mandatory minimum sentences, which target only a small number of selected offenders, truth-in-sentencing applies to virtually every felon sentenced in Virginia.

■ One component of the criminal justice system that is affected by many of the previously discussed initiatives is the state prison system. Display 28C illustrates the size of the inmate population confined by the Virginia Department of Corrections in June of each fiscal year from 1990 through 1998. Data presented in this graph begin with 1990 because comparable figures for fiscal years 1988 and 1989 were unavailable.

■ Virginia’s prison population increased in every year except 1997. On average, the prison population grew by seven percent each year from 1990 to 1998. Between 1990 and 1998, the confined prison population grew by nearly 75%.

■ One factor that contributed to Virginia’s growing prison population during the 1990s was a sharp decline in parole grant rates. Between 1990 and early 1993, Virginia’s annual parole grant rate averaged about 41% (i.e., about four out of ten inmates eligible for parole were granted parole). The parole grant rate began to decline in 1993, and by the end of 1994 it dropped

## Display 28B: Time Served in Prison Under Parole System and Truth-In-Sentencing System

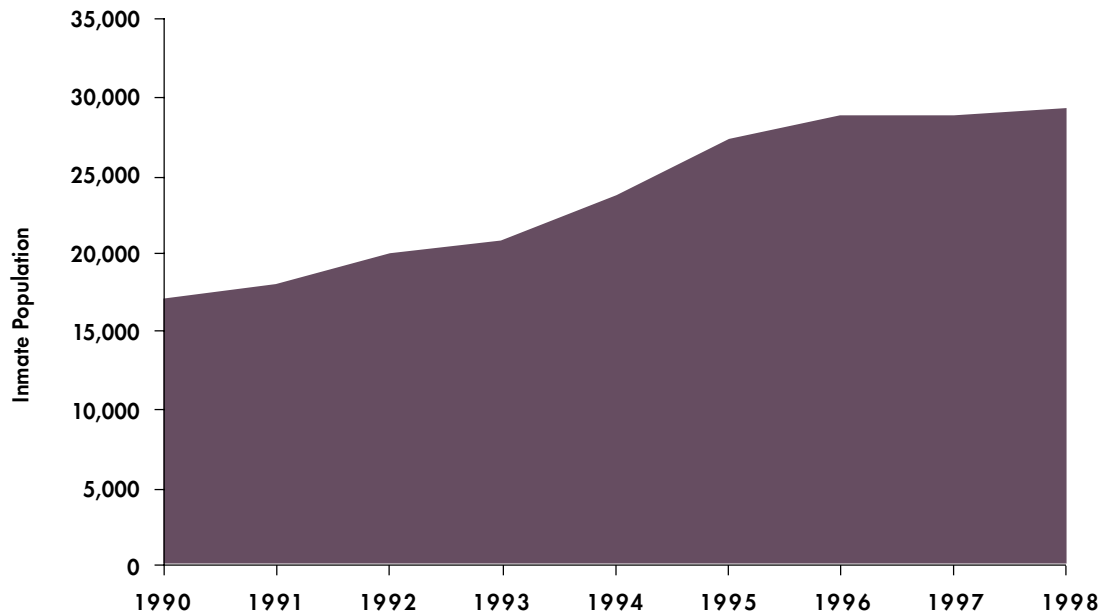


*Category I is defined as any prior conviction or juvenile adjudication for a violent crime with a statutory maximum penalty of 40 years or more.*

*Category II is defined as any prior conviction or juvenile adjudication for a violent crime with a statutory maximum penalty less than 40 years.*

*Data Source: 1998 Annual Report, Virginia Criminal Sentencing Commission.*



**Display 28C: State Prison Inmate Population (FY 1990–1998)**

*Data Source: Offender Based State Correctional Information System, Virginia Department of Corrections.*

to about 14%. Throughout the remainder of the 1990s the grant rate remained below 20%.

■ Decreases in the parole grant rate have an almost immediate effect on the size of the prison population. When parole grant rates are relatively high, parole releases somewhat offset the continuing new admissions of inmates. However, when parole releases drop significantly and new inmates continue to enter the prison system, the size of the inmate population quickly expands.

■ Although the parole system was abolished in 1994, inmates confined for offenses committed before January 1, 1995 are still under the old parole system. The Virginia Parole Board will continue to conduct hearings for these inmates. The rate at which this group of inmates is granted parole is expected to decline because this group tends to consist of inmates incarcerated for violent crimes such as murder, forcible rape and armed robbery. Inmates incarcerated for these offenses are generally considered as high risks for release and are unlikely to be granted release by the Parole Board.

■ The number of inmates admitted to prison under the previous parole system is

rapidly shrinking. The Department of Corrections estimates that in early 1996, about 25% of its new inmates admitted to prison came in under the parole system. It is estimated that by the end of the year 2000, only about one percent of new admissions will be under the parole system.

■ Certain inmates sentenced to the prison system are admitted under a 'combination' system which combines features of the old parole system and the new no-parole system. The combination system applies to inmates who have received prison sentences for offenses committed both before and after the no parole system went into effect. By law, these inmates must first serve time imposed for offenses committed under the no-parole system before becoming eligible for parole. The Department of Corrections estimates that in 1998 about one-third of the new prison admissions were 'combination' cases, and that admissions for these cases will cease about the year 2004.

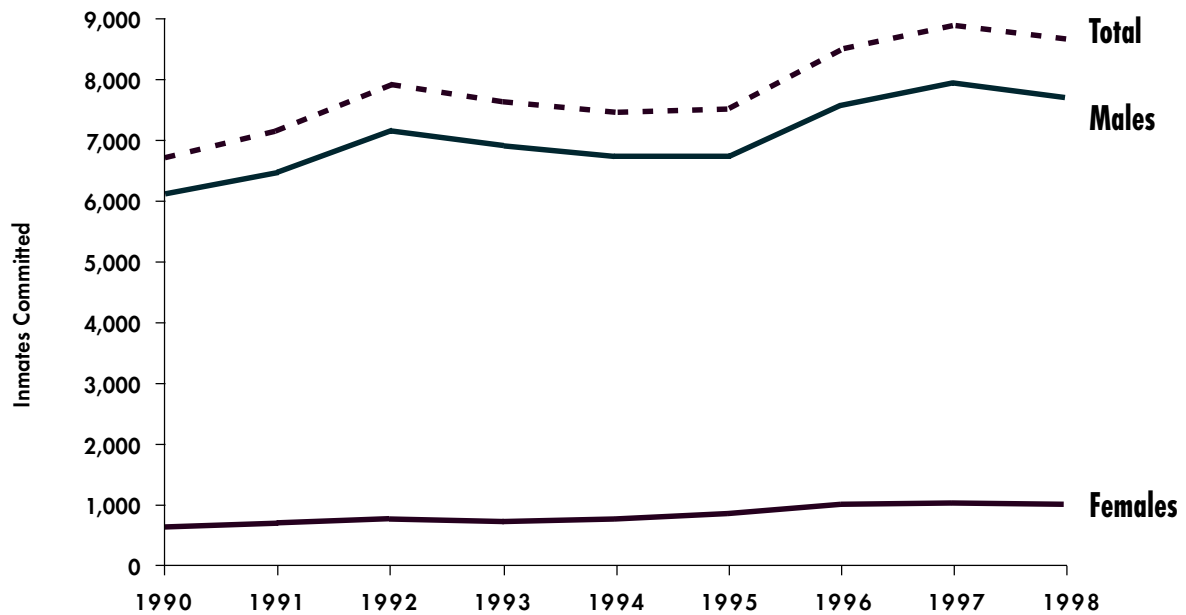
■ Another factor that contributed to prison population growth during the 1990s was the number of new prison admissions in each year. Display 28D illustrates the number of new inmates admitted to the De-

partment of Corrections in each calendar year from 1990 to 1998. Annual admissions are shown for all inmates and separately for male and female inmates.

■ Overall, the number of new admissions to prison each year grew by 28% from 1990 to 1998. New admissions increased considerably from 1990 to 1992, decreased somewhat from 1993 to 1995, and then increased again in 1996 and 1997. Annual admissions to prison decreased slightly in 1998.

■ Although females comprised a relatively small number of new annual prison admissions, female admissions as a percentage of all inmate admissions grew during the 1990s. In 1990, 9.2% of the inmates admitted to the Department of Corrections were females. By 1998, 11.3% of the new prison admissions were females. Between 1990 and 1998 there was a 58% increase in the number of females admitted to prison annually, compared to a 25% increase in the number of males admitted annually.

■ Part of the increase in the percentage of female inmate admissions may be due to Virginia's adoption of sentencing guidelines. Although the use of sentencing guidelines did

**Display 28D: Number of Inmates Committed to Virginia State Prison System (CY 1990–1998)**

*Data Source: Offender Based State Correctional Information System, Virginia Department of Corrections.*

not become codified until 1994, voluntary sentencing guidelines have been used in Virginia since 1991. One purpose of the guidelines was to reduce sentencing disparities that may occur due to extralegal factors such as race, gender and socioeconomic status. A 1996 Bureau of Justice Assistance report which examined structured sentencing practices in Oregon, Minnesota and Washington noted that males received longer sentences than females for similar offenses, and concluded that the use of sentencing guidelines somewhat reduced this gender-based sentencing disparity. The effects of Virginia's guidelines on gender-based sentencing disparity have not been fully evaluated. However, if Virginia's experience is similar to that of other states, increases in female sentences to prison may be partially due to more focus on offense-driven sentencing and a reduction in sentencing disparity.

■ The 1994 legislation abolishing parole and establishing a truth-in-sentencing system may be the most significant factor to affect the size of future prison populations in Virginia. As previously noted, sentencing reform applies to virtually all felony convictions in the Commonwealth, and repeat vio-

lent offenders are now expected to spend from two to more than five times longer in prison than under the parole system.

■ The longer prison sentences imposed under the 1994 sentencing reform are not expected to have a significant growth effect on Virginia's prison population until about the year 2000 and beyond. There are several reasons for the lag between this initiative and its expected impact on the prison population. Inmates arrested and convicted for offenses committed after January 1, 1995 did not immediately enter the prison system. On average, it takes about 11 months for a felony offender to go from arrest to conviction to admission to the prison system. Additionally, a net increase in the prison population due to sentencing reform will not become evident until inmates sentenced under truth-in-sentencing begin to serve that portion of their sentence that exceeds what they would have served under the previous parole system.

■ The primary reason that Virginia's prisons have not yet experienced a significant population increase due to truth-in-sentencing is that this growth will not occur until

large numbers of violent offenders begin to 'accumulate' in prison due to the longer sentences now imposed. As these offenders serve their longer sentences, new inmates will continue to enter the prison system each year. Over time, new admissions to prison will continue to grow faster than inmates are released. This will cause an accumulation effect that will continue to increase the overall size of the prison population.

■ Although the 1994 sentencing reform legislation significantly enhanced prison sentence lengths for violent offenders, the legislation also recognized the need to provide expanded non-incarceration sentencing alternatives for non-violent offenders. Accordingly, Virginia's existing community corrections system was expanded to provide more opportunities for non-violent offenders to be held accountable while at the same time providing services that will help these offenders reenter the community and reduce recidivism. Expanding these opportunities also allows costly prison beds to be reserved for violent offenders.